

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**UNITED STATES OF AMERICA,
Plaintiff,**

v.

**\$21,000.00, U.S. Currency,
Defendant in rem.**

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CIVIL ACTION NO. 4:10-cv-01681

**CLAIMANT'S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF'S VERIFIED COMPLAINT**

HYUNE JUNG YOON ("Claimant"), by and through his attorney of record, file this Answer and Affirmative Defenses to Plaintiff's Verified Complaint for Forfeiture in Rem and respectfully state:

1. Claimant admits this is an action to forfeit property to the United States pursuant to 31 U.S.C. § 5317(c)(2), but denies that Plaintiff is entitled to any relief on those claims.
2. Claimant, to the best of his knowledge, admits the allegations as to Defendant in rem in paragraph 2.
3. Claimant admits the allegations as to jurisdiction in paragraph 3.
4. Claimant admits the allegations as to venue in paragraph 4.
5. Claimant admits to the alleged basis for forfeiture in paragraphs 5, 6, and 7 as to the Defendant in rem, but denies that Plaintiff is entitled to relief on those basis.
6. Claimant denies the allegations in paragraphs 8 and 9.
7. Claimant denies that Plaintiff is entitled to the relief requested in subparagraphs 10a, 10b, and 10c.

AFFIRMATIVE DEFENSES

8. Claimant did not have the *mens rea* required by 31 U.S.C. § 5317(a)(1)(A) or specified by 31 U.S.C. § 5324(c)(1), thus, Plaintiff's asserted right to forfeiture under 31 U.S.C. § 5317(c)(2) was not triggered as alleged.
9. The Plaintiff's attempt to forfeit the entire amount in issue is contrary to the Excessive Fines Clause of the Eighth Amendment. A violation of the Clause requires the Court to immediately remit the defendant property to the Claimant. *United States v. Hosep Krikor Bajakajian*, 118 S. Ct. 2028 (1998).

WHEREFORE, the Claimant, Hyune Jung Yoon, respectfully requests the Court to dismiss this cause of action; to order the immediate remission of the defendant property to Claimant; to award reasonable attorneys fees and other litigations costs pursuant to 28 U.S.C. § 2465(b)(1)(A); and to award pre-judgment interest pursuant to 28 U.S.C. § 2465(b)(1)(C).

Executed on: July 1, 2010.

Respectfully submitted,

BAE LAW FIRM

By: 

Steve C. Bae

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ATTORNEY FOR CLAIMANT
HYUNE JUNG YOON

CERTIFICATE OF SERVICE

I certify that this CLAIMANT'S ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S VERIFIED COMPLAINT was served on Albert Ratliff, Assistant United States Attorney, by ECF filing on July 1, 2010.

/s/ Steve C. Bae

Steve C. Bae